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The Honorable James L. Robart ı 2 (186): 1819: 1819: 1819: 1819: 1818 1818: 1818: 1818: 1818: 1818: 1818: 1818: 1818: 1818: 1818: 1818: 1818: 18 3 4 04-CV-01291-ORD 5 6 7 8 UNITED STATES DISTRICT COURT 9 WESTERN DISTRICT OF WASHINGTON AT SEATTLE 10 EQUAL EMPLOYMENT OPPORTUNITY 11 COMMISSION, CASE NO. C04-01291 JLR 12 Plaintiff 13 Proposed CONSENT DECREE 14 RED ROBIN GOURMET BURGERS INC. 15 Defendant. 16 17 EDWARD RANGEL, JR., Plaintiff in Intervention 18 19 20 I. INTRODUCTION 21 1. This action originated with a discrimination charge filed by Edward Rangel, Jr. with 22 the U.S. Equal Employment Opportunity Commission, Seattle District Office ("EEOC"). Mr. Rangel alleged that Red Robin Gourmet Burgers Inc. discriminated against him based on his 24 25 religion when it allegedly failed to accommodate Mr. Rangel's religious needs and that it 26 U.S. Equal Employment Opportunity Commission Senttle District Office 27 909 First Avenue, Suite 400 Telephone: 206-220-6883 28 Consent Decree Page - 1 TDD: (206) 220-688

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allegedly discharged him on the basis of his religion and in retaliation for his discrimination complaint, in violation of §703(a) of Title VII of the Civil Rights Act of 1964, as amended in 1991, 42 U.S.C. § 2000e-2(a) and § 704(a) of Title VII of the Civil Rights Act of 1964, as amended in 1991, 42 U.S.C. § 2000e-3(a).

- 2. The EEOC investigated Mr. Rangel's allegations. The EEOC sent Red Robin International, dba Red Robin Gournet Burgers ("Red Robin"), a Letter of Determination with findings of reasonable cause that Red Robin had violated Title VII.
- 3. The Commission filed this lawsuit on May 26, 2004 in the United States District Court for the Western District of Washington on behalf of the Charging Party. Red Robin filed its Answer and Affirmative Defenses to the lawsuit on June 22, 2004. The Charging Party filed a motion for intervention on June 23, 2004. The Court granted the motion to intervene on July 27, 2004.
- 4. The BEOC, Plaintiffs in Intervention and Red Robin want to conclude all claims arising out of the above charges without expending further resources in contested litigation.

II. NON-ADMISSION OF LIABILITY AND NON-DETERMINATION BY THE COURT

5. This Consent Decree is not an admission of wrongdoing or an adjudication or finding on the merits of the case. Red Robin specifically denies liability.

III. SETTLEMEN<u>T SCOPE</u>

6. This Consent Decree represents the final and complete resolution of all allegations of

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unlawful employment practices contained in: (1) the charge filed by the Mr. Rangel with the EEOC; (2) the Complaint filed herein by the EEOC on behalf of Mr. Rangel; and (3) the Complaint filed herein by Mr. Rangel, including all claims by the parties for attorney fees and costs.

IV. JURISDICTION AND VENUE

7. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

V. DEFINITION OF TERMS

For the purposes of this Consent Decree, the following definitions shall apply:

- 8. "The Effective Date of the Consent Decree" is the date the United States District Court for the Western District of Washington at Seattle enters the Consent Decree and (Proposed)

 Order of Dismissal.
 - 9. Unless otherwise indicated, the word "days" refers to calendar days.
- 10. "Complaint(s)" includes any complaint of religious discrimination, religious harassment, retaliation related to religion, or request for accommodation based on religion, whether written or oral, made to any manager or through the Open Door phone line.
 - 11. "Manager" includes any manager at Red Robin above the level of mid-manager.

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VI. MONETARY RELIEF

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12. In settlement of the EEOC and Mr. Rangel's claims in this lawsuit, Red Robin has agreed to pay Mr. Rangel One Hundred and Fifty Thousand Dollars (\$150,000.00). The terms of the monetary aspect of this settlement are incorporated into a separate release negotiated between

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Mr. Rangel and Red Robin.

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VII. AFFIRMATIVE AND OTHER RELIEF

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A. Compliance with Title VII

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13. Red Robin reaffirms its commitment to comply with Title VII. To further this commitment, the company shall institute the policies and practices set forth below and monitor the affirmative obligations of this Consent Decree.

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B. Employee Records

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14. Defendant will not disclose any information or make references to any charge of discrimination or this lawsuit in responding to employment reference requests for information

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about Mr. Rangel which have been directed to the Employment Verification Line, 800-367-2884.

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Defendant will endeavour to have all such employment reference checks received for Edward

Rangel referred to the Employment Verification Line. In response to any inquiries other than

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through a subpoena or in response to an inquiry by a governmental agency regarding Mr. Rangel,

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Red Robin shall provide employment references that include only dates of employment and

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position held.

U.S. Equal Employasent Opportunity Commission Scattle District Office 909 Pirst Avenue, Suite 400 Scattle, WA 98104-1061

Telephone: 266-226-6883 Faculmiie: (266) 220-691 TDD: (266) 228-688 lawsuit in Mr. Rangel's personnel files. Defendant will not add any information or references to

Mr. Rangel's personnel files or records regarding his charge of discrimination and this lawsuit

after the entry of this Consent Decree. Files containing information about Mr. Rangel that have

counsel, Jackson Lewis LLP, or Red Robin's Legal Department. Red Robin will make Charging

Party's personnel file available for inspection by counsel for Charging Party by contacting Red

been developed during the subject litigation will be maintained at the offices of Defendant's

15. Defendant affirms that there are no references to any charge of discrimination or this

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C. Anti-Discrimination Policies and Procedures

Robin through Jackson Lewis LLP or the Red Robin Legal Deptartment.

16. Red Robin will maintain a written equal employment opportunity policy which sets forth the requirements of federal laws against employment discrimination and harassment. The policy must contain provisions which address discrimination based on religion and employees' rights to have their religious beliefs accommodated. The policy must also provide that it is unlawful to retaliate against any current or former employee for opposing any practice made unlawful by Title VII.

17. Red Robin shall institute and carry out anti-discrimination policies and procedures to the extent not already established, and will provide equal employment opportunities for all employees. Red Robin will ensure that its managers in Washington and Oregon understand its Equal Employment Opportunity ("EEO") policies and how those policies define and identify what constitutes employment discrimination.

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S, Equal Employment Opportunity Commission Scattle District Office 999 First Avenue, Suite 400 Scattle, WA 98104-1961 Telephone: 206-221-4893 Facalmile: (206) 220-691

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U.S. Equal Employment Opportunity Commission Scattle District Office 909 First Avenus, Seite 400 Seattle, WA 98164-1061 Telephone: 206-220-628 Facilimite: (206) 220-688

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(ii) Red Robin agrees that it shall permit complaining parties to be interviewed by Red Robin or Red Robin Upper Management or Red Robin Human Resources Personnel about their complaints in such a manner that permits the complaining party, at such party's election, to remain inconspicuous to all of the employees in such party's work area.

(iii) Red Robin shall ensure that its policies and procedures provide that all complaints of discrimination, barassment and/or retaliation are investigated and addressed promptly. Red Robin will provide for a full and effective investigation of all complaints as well as appropriate remedies for handling complaints. If Red Robin determines discrimination, harassment or retaliation occurred, Red Robin will, thereafter, impose an appropriate remedy up to and including termination. Red Robin will follow up with the complaining party after the investigation is completed, wherever possible.

(iv) Red Robin agrees that it shall make a good faith effort to ensure that appropriate remedial action is taken to resolve complaints and to avoid the occurrence of incidents of discrimination, harassment and/or retaliation.

Red Robin further agrees that it shall provide for appropriate discipline including but not limited to, reprimands, demotion or termination, as possible consequences for violations of its discrimination, harassment and

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retaliation policies.

(v) All complaints of discrimination, harassment, requests for accommodation and retaliation received through the Red Robin Corporate telephone number listed in the Open Door Policy must be documented and Red Robin must ensure that all complaints received through this line have received a proper response. The response to and resolution of all complaints received through this telephone line must also be documented.

(c) Policies Designed To Promote Supervisor Accountability.

(i) Red Robin, once it has been made aware through the mechanisms in its policies, agrees that it shall impose discipline, up to and including reprimands, demotion or termination upon any manager who fails to respond appropriately to a complaint of discrimination or harassment occurring in his or her work area or among employees under his or her supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. Red Robin shall communicate this policy to all of its managers.

_(ii) Red Robin agrees that, in evaluating the performance and determining the compensation of managers, it will take into account whether such managers appropriately follow Red Robin's policies and procedures, including those related to EEO.

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U.S. Equal Employment Opportunity Commission Seattle District (Trice 909 First Avenue, Suite 400 Seattle, WA 581184-1061

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(d) Anti-Discrimination Training and Procedures

- (i) By January 2, 2006, Red Robin will distribute a written copy of its discrimination, harassment and retaliation policies to all Bellevuc employees and to all managers in Washington and Oregon. Red Robin also will post a copy of the document in all Red Robin facilities in Washington and Oregon, in prominent and conspicuous locations in or near the employee lunchroom/breakroom or other place within the premises where employees tend to gather. Copies of the policies will be provided to employees hired thereafter within one week of their employment. Red Robin will provide the EEOC with a written copy of its discrimination, harassment and retaliation policies as part of its first annual report as provided in paragraph D.18 below.
- (ii) Within six months after entry of this Decree, Red Robin shall provide at least two hours of classroom or other effective interactive training and education regarding harassment, discrimination and accommodation requirements to all managers in Washington and Oregon who are employed as of July 1, 2005, and to all new managers in Washington and Oregon within six months of their assumption of a management position.

 After the training noted immediately above, Red Robin shall provide harassment, discrimination, and accommodation training and education to

U.S. Equal Employment Opportunity Commission Seattle District Uffice 949 First Avenue, Suite 490 Seattle, W.A. 98104-1061 Trilephone: 206-220-6883 Factionites (206) 220-691 TRD: (206) 220-691

each manager once every two years. The training and education required by this section shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of harassment, discrimination and accommodation and the remedies available to victims of such harassment, discrimination or failure to accommodate. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. This training shall specifically include matters of religious discrimination and religious accommodation, and shall also address the obligations of managers to document and report complaints of discrimination, harassment or retaliation, or requests for religious accommodation.

(iii) Red Robin will notify the EEOC of the completion of all training and will specify the names of the employees who participated in and completed the training in Washington and Oregon as part of its semiannual reporting to the EEOC.

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D. Reporting

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19. Six months following the entry of this Decree and every six months thereafter for the duration of the Decree, Red Robin will send the EEOC a written report of individuals in Washington and Oregon who, during the prior six- month period, made a complaint of discrimination to their Regional Director, Senior Regional Director, Human Resources, to the Corporate Open Door Telephone line, to a governmental agency, or to any General manager, along with an explanation as to Defendant's response to these complaints. This does not include oral complaints which were resolved to both parties' satisfaction within 48 hours of the initial complaint. In this written report, Red Robin also shall affirm steps taken to comply with all other terms of the Decree.

20. Red Robin shall submit a final report to EEOC 30 days before the Consent Decree expires, including a statement that it has complied with all the terms of this Consent Decree.

E. Posting

21. Within two (2) weeks after entry of this Decree, Red Robin shall post a notice in the form of Exhibit A attached to this Decree (the English and Spanish forms within Exhibit A) in prominent and conspicuous locations in or near the employee lunchroom/breakroom or other place within Red Robin premises in Washington and Oregon where employees tend to gather. The notice shall remain posted for the duration of this Decree. In the event that the persons and/or departments to whom individuals should make complaints alleging discrimination or retaliation change during the term of the Decree, such that the

U.S. Equal Employment Opportunity Commission Scattle District Office 949 First Avenus, Suite 400 Seattle, WA 93144-1061 Telephone: 246-220-6883 Facsimils: (206) 220-681 TDD: (206) 220-688

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VIII. ENFORCEMENT

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information contained on the notice is no longer accurate, Red Robin shall immediately notify the EEOC so it may prepare a new notice that contains the correct information. Red Robin shall upon receipt of the new notice promptly replace the old notices with the revised notices. Red Robin shall maintain a copy of this Decree in its Corporate Human Resources Office for any employee who wishes to review it. Red Robin shall notify its managers, that if they become aware or if they are informed that the notice has been prematurely removed, that manager shall re-post the notice within 48 hours.

22. If the EEOC concludes that Red Robin has breached this agreement, it may bring an action in the United States District Court for the Western District of Washington at Seattle to enforce this Consent Decree. Before bringing an action for breach of the Decree, the EEOC shall first give the company a 30-day written notice addressed to: Emily Rusnak, Red Robin, 6312 S. fiddler's Green Circle, suite 200 North, Greenwood Village, CO 80111. The 30-day notice period commences on the date written notice is received. The EEOC and the company shall use that 30-day period for good faith efforts to resolve the matter.

IX. <u>RETENTION OF JURISDICTION</u>

23. The United States District Court for the Western District of Washington at Seattle shall retain jurisdiction over this matter for the duration of the Decree.

X. <u>DURATION AND TERMINATION</u>

24. This Decree shall be in effect until January 15, 2009. If the EEOC petitions the

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1 Court for breach of agreement, and the Court finds the company to be in material violation of the 2 terms of the Consent Decree, the Court may extend this Consent Decree. 3 XI. CONCLUSION 4 5 The provisions of this Consent Decree are not binding on the parties until the 6 authorized representatives of each party sign and the court enters the consent decree in the court. 7 Dated this \mathcal{I}^{th} day of September, 2005. 8 A. LUIS LUCERO, JR. JAMES D. LEE Deputy General Counsel Regional Attorney 10 KATHRYN OLSON Supervisory Trial Attorney GWENDOLYN YOUNG REAMS 11 TERI HEALY Associate General Counsel Trial Attorney 12 13 14 BY: /s/ Kathryn Olson EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 15 ||Seattle District Office Office of the General Counsel 909 First Avenue, Suite 400 1801 "L" Street, N.W. 16 Seattle, Washington 98104 Washington, D.C. 20507 Теlернопе 206.220.6916 17 teri.healy@eeoc.gov 18 Attorneys for Plaintiff 19 BY: /s/ Laurie L. Johnston 20 LAURIE L. JOHNSTON, WSBA #25927 JACKSON LEWIS, LLP 21 600 University Street, Suite 2900 Seattle, WA 98101 22 Telephone 206,405.0404 johnstonl@jacksonlewis.com 23 Attorneys for Defendant 24 25 26 U.S. Equal Employment Oppor 27 Searthe District Office First Avenue, Suite 400 Seattle, WA 98104-1061 Yelephone: 206-220-6883 Fuccimile: (206) 220-691 'FDD: (206) 220-688 28 Consent Decree Page - 13

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ORDER

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The Court, having considered the foregoing stipulated agreement of the parties, HEREBY ORDERS THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this The day of September , 2005

The Honorable James L. Robart UNITED STATES DISTRICT JUDGE

U.S. Equal Employment Opportunity Communication Seattle District Office 909 Bruz Avesno, Nutic 430 Seattle, WA 98104-1061 Telephone: 266-220-883

TDD: (206) 220-691



NOTICE TO EMPLOYEES

This notice has been posted pursuant to an Order of the Court, entered on _____, approving the Consent Decree entered in resolution of a lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC) against Red Robin Gourmet Burgers Inc. in the Western District of Washington. The Consent Decree resolves EEOC's claims of discrimination and retaliation brought against Red Robin Gourmet Burgers Inc. and enjoins the company from conduct prohibited by Law. Red Robin Gourmet Burgers Inc. affirms its commitment to compliance with Laws against discrimination.

FEDERAL LAW PROHIBITS DISCRIMINATION AGAINST ANY INDIVIDUAL BECAUSE OF HIS OR HER SEX, RACE, NATIONAL ORIGIN, AGE OVER FORTY, DISABILITY, COLOR, RELIGION. FEDERAL LAW ALSO PROHIBITS HARASSMENT ON ANY OF THESE BASES.

FEDERAL LAW ALSO PROHIBITS RETALIATION AGAINST ANY INDIVIDUAL BY AN EMPLOYER BECAUSE THE INDIVIDUAL COMPLAINS OF DISCRIMINATION, COOPERATES WITH ANY RED ROBIN GOURMET BURGERS INC. OR GOVERNMENT INVESTIGATION OF A CHARGE OF DISCRIMINATION, PARTICIPATES AS A WITNESS OR POTENTIAL WITNESS IN ANY INVESTIGATION OR LEGAL PROCEEDING, OR OTHERWISE EXERCISES HIS OR HER RIGHTS UNDER THE LAW.

ANY EMPLOYEE WHO IS FOUND TO HAVE RETALIATED AGAINST ANY OTHER EMPLOYEE BECAUSE SUCH EMPLOYEE PARTICIPATED IN THIS LAWSUIT WILL BE SUBJECT TO SUBSTANTIAL DISCIPLINE UP TO AND INCLUDING IMMEDIATE DISCHARGE.

SHOULD YOU HAVE ANY COMPLAINTS OF DISCRIMINATION OR HARASSMENT, YOU SHOULD CONTACT HUMAN RESOURCES AT ______.

EMPLOYEES ALSO HAVE THE RIGHT TO BRING COMPLAINTS OF DISCRIMINATION OR HARASSMENT TO THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, SEATTLE DISTRICT OFFICE AT 909 1st Avenue, Suite 400, SEATTLE, WA 98104-1061, 206.220.6883, 1800.669.4000, or the Washington State Human RIGHTS COMMISSION AT 711 S. CAPITOL WAY, SUITE 402, OLYMPIA, WA 98504-2490, 360.753.6770.

THIS NOTICE SHALL REMAIN PROMINENTLY POSTED AT RED ROBIN GOURMET BURGERS INC. Until January 2009. This Official Notice shall not be altered, defaced, covered or obstructed by any other material.



AVISO A LOS EMPLEADOS

ESTE AVISO SE COLOCA DE CONFORMIDAD CON UNA ORDEN DE LA CORTE REGISTRADA EN ______, APROBANDO EL ÁCUERDO DE COOPERACIÓN AL QUE SE LLEGÓ COMO RESULTADO DE UNA ACCIÓN LEGAL INSTAURADA POR EL U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) CONTRA RED ROBIN GOURMET BURGERS INC. EN EL WESTERN DISTRICT DE WASHINGTON. EL ACUERDO DE COOPERACIÓN ACATA LAS QUEJAS DE DISCRIMINACIÓN Y REPRESALIA ELEVADAS CONTRA RED ROBIN GOURMET BURGERS INC. Y COHIBE A LA EMPRESA DE CONDUCTAS PROHIBIDAS FOR LA LEY. RED ROBIN GOURMET BURGERS INC. DECLARA SU COMPROMISO DE CUMPLIR CON LAS LEYES CONTRA LA DISCRIMINACIÓN.

LAS LEYES FEDERALES PROHÍBENS LA DISCRIMINACIÓN CONTRA CUALQUIER PERSONA EN RAZON DE SU SEXO, RAZA, ORIGEN NACIONAL, EDAD MAYOR DE 40 AÑOS, INCAPACIDAD, COLOR, Y RELIGION. LAS LEYES FEDERALES TAMBIEN PROHÍBENS EL HOSTIGAMIENTO BASADO EN ESTOS CARACTERÍSTICAS.

LAS LEYES FEDERALES TAMBIÉN PROHIBEN LAS REPRESALIAS CONTRA CUALQUIER PERSONA, POR PARTE DEL EMPLEADOR, PORQUE ESA PERSONA SE QUEJA POR DISCRIMINACIÓN, COOPERA CON ALGUNA INVESTIGACIÓN DE RED ROBIN GOURMET BURGERS INC. O DEL GOBIERNO, CON RELACIÓN A UNA QUEJA POR DISCRIMINACIÓN, ACTÚA COMO TESTIGO REAL O POTENCIAL EN ALGUNA INVESTIGACIÓN O PROCESO O, DE ALGUNA OTRA MANERA, EJERCE SUS DERCHOS BAJO LA LEY.

CUALQUIER EMPLEADO QUE SEA ENCONTRADO CULPABLE DE REPRESALIA CONTRA OTRO EMPLEADO QUE HAYA INTERVENIDO EN ESTA DEMANDA LEGAL, SERÁ OBJETO DE SANCIONES DISCIPLINARIAS QUE PUEDEN LLEGAR AL DESPIDO INMEDIATO.

SI USTED TIENE ALGUNA QUEJA DE DISCRIMINACIÓN O HOSTIG-AMIENTO DEBE CONTACTAR A RECURSOS HUMANOS AL _____.

LOS EMPLEADOS TAMBIÉN TIENEN EL DERECHO A ELEVAR SUS QUEJAS SOBRE DISCRIMINACIÓN O ACOSO AL U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, SEATTLE DISTRICT OFFICE AT 909 1ST AVENUE, SUITE 400, SEATTLE, WA 98104-1061, 206.220.6883, 1800.669.4000, O AL WASHINGTON STATE HUMAN RIGHTS COMMISSION EN 711 S. CAPITOL WAY, SUITE 402, OLYMPIA, WA 98504-2490, 360.753.6770.

ESTE AVISO DEBE SER COLOCADO Y DESTACADO EN RED ROBIN GOURMET Burgers inc. hasta Enero de 2010. Este Aviso Oficial no puede ser Alterado, dañado, tapado u obstruído por ningún otro objeto.